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No. 84-54

In The
Supreme Court of the United States
October Term, 1984

GARY AND TERESA HIBBS,

Petitioners,

vs.

JEEP CORPORATION,

Respondent.

On Petition for a Writ of Certiorari to the Missouri Court of Appeals for the Western District

RESPONDENT'S BRIEF IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Whether This Court Should Accept for Certiorari Review the Missouri Court of Appeals' Ruling Affirming the State Trial Court's Refusal to Award Attorneys' Fees, Where None of the Considerations of Supreme Court Rule 17 Are Present

II. Whether This Court Should Accept for Certiorari Review the Missouri Court of Appeals' Ruling that the State Trial Court Did Not Err By Not Stating the Reasons for Its Discretionary Denial of Attorneys' Fee

III. Whether this Court Should Accept for Certiorari Review the State Trial Court's Ruling Denying Attorneys' Fees Where the State Trial Court Did Not Abuse Its Discretion By Denying Attorneys' Fees

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Respondent's statement listing corporate ownership, pursuant to Supreme Court Rule 28.01, is in the appendix to this brief. See App. F.

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STATEMENT OF THE CASE

Nature of the Case

This is a state warranty case involving a claim for property damage and attorney fees arising from an engine fire in a 1979 Jeep Cherokee automobile. Petitioners, in a four count complaint, sued Jeep Corporation, four auto-

mobile dealerships and a bank, claiming that the defendants had breached an express and an implied warranty, and had committed fraud. After a verdict in favor of petitioners against Jeep Corporation on petitioners' state law claims for breach of express warranty and fraud, petitioners' request for attorneys' fees under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*, was denied by the state trial court. App. A, at A-1-2[1]. On appeal to the Missouri Court of Appeals for the Western District of Missouri, petitioners agreed there was no evidence of fraud and that the jury's fraud verdict should be reversed. App. B, at B-2. The Missouri Court of Appeals reversed the fraud verdict, affirmed the trial court's denial of attorneys' fees and remanded the case for a retrial of damages on petitioners' express warranty claim. App. B, at B-29. The Missouri Supreme Court refused to accept transfer, and petitioners now seek to have this Court overturn that portion of the state trial court's order which denied petitioners' request for attorneys' fees. *See* App. D.

Statement of the Facts

The statement contained in petitioners' brief constitutes petitioners' version of the facts on the liability issue. While numerous factual disputes exist in this case, particularly with regard to the testimony concerning the unusual nature and origin of the fire, this evidence has no bearing on the attorney fee question which petitioners are asking

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[1]Fact references in this brief are to the appendix attached to the petition for certiorari. Although the Missouri Court of Appeals opinion is included in the petitioners' appendix, it has been published. *Hibbs v. Jeep Corp.*, 666 S.W.2d 792 (Mo. App. 1984).

this Court to review. In fact, petitioners' brief fails to discuss any of the evidence which was presented in connection with their claim for attorneys' fees.

A hearing on petitioners' application for attorneys' fees and expenses was held before the trial judge, who had presided throughout the litigation.[2] App. A, E at E-6-10. Counsel for petitioners presented a claim for attorneys' fees based solely on the jury verdict against Jeep Corporation on Count I, the state law claim alleging a breach of express warranty.

Two witnesses testified in connection with the claim for attorneys' fees, David W. Whipple, trial counsel for petitioners, and Julie L. Fry, initially a law clerk and later an associate with Mr. Whipple's law firm. The petitioners also presented summary lists covering hours worked and subject matter. The Missouri Court of Appeals properly found that much of the time spent by petitioners' counsel was on claims against defendants other than Jeep Corporation. App. B, at B-26. Neither the testimony of Mr. Whipple and Ms. Fry, nor the scant documentary evidence showed what portion of the time was spent on the claim against Jeep, what persons worked on the case and the specific time spent by each individual attorney. As described below, and noted in the appellate court's opinion, the petitioners, at one time or another during the litigation, sought a recovery from five defendants other than Jeep Corporation. App. B, at B-26.

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[2]Prior to the hearing petitioners' counsel submitted an application requesting attorneys' fees in the amount of $37,524.-75. App. B, at B-27.

It is without dispute that a substantial number of attorney entries on the submitted summary lists were unrelated, in whole or in part, to the fraud and express warranty claims against Jeep Corporation. *See* App. B, at B-27. Petitioners offered no testimony concerning the general hourly rates for each of the attorneys who worked on the case at the time the fees were incurred. App. B, at B-27. Further, no testimony was offered concerning the precise manner in which the time records were kept and from which the exhibits were derived.

Course of Proceedings

During this litigation, petitioners filed three amended petitions. The third and final petition sought recovery from defendants Jeep Corporation, three automobile dealerships and the financing bank. An earlier petition sought damages against another dealership as well. The four counts of the third amended petition contained the following claims: Count I for breach of express warranty; Count II for breach of implied warranty of merchantability; Count III for violations under specific provisions of the Magnuson-Moss Act; and Count V for fraudulent misrepresentations. *See* App. B, at B-1-2, B-26.

Petitioners dismissed two of the dealership defendants before the start of the trial. The claim against the bank was rendered moot by the satisfaction of plaintiffs' note deficiency through the application of the lienholder insurance proceeds and the salvage proceeds realized on the vehicle. At the conclusion of all of the evidence, the two remaining dealerships were granted directed verdicts. The case was submitted to the jury only against Jeep Cor-

poration on Counts I and V of plaintiffs' third amended petition.

Petitioners abandoned all claims of any violation of the Magnuson-Moss Warranty Act (Count III) prior to trial. The jury returned a verdict against Jeep Corporation on Counts I and V.[3] The trial court subsequently allowed petitioners to present evidence and argument on their motion for attorney fees and expenses. Following a hearing, an order was entered denying petitioners' request for attorneys' fees and expenses. App. A.

The Missouri Court of Appeals reversed the fraud verdict and affirmed the denial of attorney fees. The court of appeals also remanded for a determination of damages, including the petitioners' claim for expenses, but specifically excluded any recovery of attorneys' fees. App. B, at B-29. Following the Missouri Supreme Court's refusal to accept transfer, this petition seeking certiorari review was filed.

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SUMMARY OF THE ARGUMENT

Petitioners seek review of a state appellate court's affirmance of a trial court's discretionary ruling in an automobile warranty case. Their request for certiorari review should be summarily refused because it does not come within the criteria of Rule 17. The petition primarily

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[3]Petitioners concurred in the brief submitted to the Missouri Court of Appeals that insufficient evidence had been presented on their fraud claim and that portion of the verdict was reversed. App. B, at B-2. Thus, as to five defendants and three other claims for relief, petitioners were not a prevailing party.

presents questions of state substantive and procedural law. The petition does not raise any question that is important or suitable to general application. Further, the petitioners' analysis of the applicable law is erroneous and does not support the contention that the trial court abused the discretion afforded it under the express language of the Magnuson-Moss Warranty Act.

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ARGUMENT

I. This Court Should Not Accept for Certiorari Review the Missouri Court of Appeals' Ruling Affirming the State Trial Court's Refusal to Award Attorneys' Fees Because None of the Considerations of Supreme Court Rule 17 Are Present.

The petition before this Court seeks review of a discretionary ruling by a state trial court denying an award of attorneys' fees in an automobile warranty case. The express language of the applicable statute clearly places the decision within the discretion of the trial court and also plainly authorizes that court to determine, in its discretion, that an award of attorneys' fees is inappropriate. *See* 15 U.S.C. § 2310(d)(2). The decision of the state trial court, and the Missouri Court of Appeals' review of that decision, were necessarily based upon the particular facts and circumstances present in this case. App. B, at B-24-25. Because the decision was based on the special facts and circumstances involved, and the fact that a decision under the statute in question necessarily involves an analysis which must be conducted on a case-by-case basis, it is ap-

propriate that the first question presented to this Court is whether certiorari should properly be granted to review such a discretionary ruling.

The petition makes no reference to Rule 17 of this Court. That is understandable since the petition does not come within any of the three categories of Rule 17. Those categories indicate the criteria generally considered by this Court in measuring the exercise of certiorari review. The Hibbs' petition does not point to any state court or federal court of appeals decision which is in conflict with the specific and narrow question presented and decided by the Missouri Court of Appeals. *See* Rule 17.1(b), Sup. Ct. R. (1980). Nor do petitioners persuasively argue that the application of a state trial court's discretion and a state appellate court's review of that discretionary decision is "an important question of federal law" which should be settled by the United States Supreme Court. In addition, the petition does not point to any applicable decision of this Court which is in conflict with the decision below. Rule 17.1(c), Sup. Ct. R. (1980).

The Missouri Court of Appeals opinion makes clear the principle that the decision to review attorneys' fees in this case is based upon the record evidence, or, more accurately, the lack thereof. App. B, at B-23-28. The state court of appeals demonstrated that the Hibbs' evidence concerning attorneys' fees was improperly allocated and jumbled among six defendants and four claims. The claim for attorneys' fees included hours incurred working on claims against five defendants other than Jeep Corporation. The failure of the petitioners' proof is a perfect example of why certiorari is inappropriate. The trial court's decision, and the appellate court's review of that decision,

were and are unalterably connected to the special facts and circumstances of the case. Certainly, it is not the role of this Court to review such state court decisions.

The petition for certiorari also ignores the express language of the Magnuson-Moss attorney fee provision which instructs courts to evaluate an attorney fee request under their discretion.[4] Further, the petitioners cite no federal standard for determining an abuse of discretion, nor do they suggest that state law should not be utilized to effectuate the plain language of the statute. The Missouri Court of Appeals looked to Missouri law to determine what amounted to an abuse of discretion. This Court has a long tradition of declining review of such state law questions. *See, e.g., Butner v. United States,* 440 U.S. 48, 58 (1979); *Pierson v. Ray,* 386 U.S. 547, 558 n.12 (1967); *Wolf v. Weinstein,* 372 U.S. 633, 636 (1963). The petition presents no compelling or important reason for this Court to depart from that precedent at this time.

The Hibbs' petition is wholly inappropriate for discretionary review by this Court under its certiorari jurisdiction.

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[4] 15 U.S.C. § 2310(d) (2) provides:

> If a consumer finally prevails in any action brought under paragraph (1) of this subsection, he *may be allowed* by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including reasonable attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action, *unless the court in its discretion* shall determine that such an award of attorneys' fees would be inappropriate.

(emphasis added).

II. This Court Should Not Accept for Certiorari Review the Missouri Court of Appeals' Ruling that the State Trial Court Did Not Err by Not Stating the Reasons for Its Discretionary Denial of Attorneys' Fees.

The Hibbs' petition asserts that the Magnuson-Moss Warranty Act requires a Missouri trial court to make a written discussion of its reasons for denying attorney fees. This contention does not present a reviewable issue because the state court's decision is based upon adequate and independent state grounds. *See, e.g., Mullaney v. Wilbur,* 421 U.S. 684, 689 (1975); *Murdock v. Memphis,* 20 Wall. (87 U.S.) 590 (1875).[5]

The Missouri Court of Appeals rejected this contention because the petitioners had made "[n]o request for findings of facts and conclusions of law . . . to the Court on this issue and therefore the trial court cannot be convicted of error in denying attorney fees without giving reasons. Rule 73.01 (Mo. R. Civ. P.); *Walker v. Walker,* 631 S.W.2d 68 (Mo. App. 1982); *Watkins v. Johnson,* 606 S.W.2d 493 (Mo App. 1980)." App. B, at B-28. In the absence of a specific request for findings of fact and conclusions of law, none are required in Missouri. *Wingate v. Griffin,* 610 S.W.2d 417, 418 (Mo. App. 1980). The Missouri court thus ruled on this issue based upon an independent and adequate state procedural rule. Under these circumstances, review by this Court is inappropriate. *See Scripto, Inc. v. Carson,* 362 U.S. 207 (1960);

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[5]The teaching of *Murdock v. Memphis* and its progeny is also that this Court will accept as binding upon it the state court's determination of questions of state law. *See Fox Film Corp. v. Muller,* 296 U.S. 207 (1935); *Eustis v. Bolles,* 150 U.S. 361 (1893). *See generally* C. Wright, A. Miller, E. Cooper & E. Gressman, *Fed. Prac. & Pro.* § 4020 (1977).

Wainwright v. Sykes, 433 U.S. 72 (1977). *Cf. Henry v. Mississippi,* 379 U.S. 443 (1965) (apparently requiring that a state procedural rule which is an adequate and independent state law basis serve a "legitimate state interest" but concluding that a state law requirement of a contemporaneous objection rule regarding the admission of evidence clearly served a legitimate state interest).

Rule 73.01 of Missouri Rules of Civil Procedure provides in part as follows:

> The court shall render such judgment that it thinks proper under the law and the evidence. *If any party so requests* before final submission of the case, the court shall dictate to the court reporter, or prepare and file, a brief opinion containing a statement of the grounds for each decision and the method of determining any damages awarded; and may, *or if requested by counsel,* shall, include its findings on such controverted fact issues as have been specified by counsel. All fact issues upon which no specific findings are made shall be considered as having been found in accordance with the result reached.

Rule 73.01(2), Mo. R. Civ. P. (emphasis added). The petitioners have not contended at any time that they requested a written statement of reasons or that they did not have the opportunity to do so. The state procedural rule, therefore, has not in any way frustrated the federal substantive rights contained in the Magnuson-Moss Act.[6]

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[6]Petitioners also argue that the Magnuson-Moss Warranty Act requires written findings of fact and conclusions of law. The statute clearly contains no such provision. Where the relevant state court procedural rules dictate that a party specifically request written findings, it is well established that state court procedural rules govern, even when federal substantive law is applied by state courts.

The state procedural rule advances a legitimate state interest by promoting efficient use of judicial resources, while still providing an adequate opportunity for a party to obtain specific findings of fact and conclusions of law by merely making a request. *See Walker v. Walker,* 631 S.W.2d at 71 ("the trial court is not required to give a detailed finding of fact unless a party requests one. When there is no detailed finding of fact, the facts are assumed to be found in a manner consistent with the judgment."); *Watkins v. Johnson,* 606 S.W.2d at 495 ("[T]he record reveals no request by either party was made for findings of facts or conclusions of law. Such findings and conclusions are not required of the trial court unless requested. . . .").

The issue concerning a written statement of reasons for denying attorney fees was adequately and independently resolved by the Missouri Court of Appeals based on state law. Therefore, the Hibbs' argument on this issue is improper for review under this Court's certiorari jurisdiction.

III. This Court Should Not Accept for Certiorari Review the State Trial Court's Ruling Denying Attorneys' Fees Since the State Trial Court Did Not Abuse Its Discretion in Failing to Make an Award of Attorneys' Fees.

Petitioners also argue that certiorari should be accepted by this Court for the reasons that the state trial court's denial of attorneys' fees violates the Congressional intent of the Magnuson-Moss Warranty Act and otherwise constitutes an abuse of discretion. Petitioners further contend that a prevailing party should be presumptively entitled to an award of attorneys' fees.

Petitioners' claim of entitlement to attorneys' fees as a matter of right in point 1 of their argument is based on their interpretation of the legislative history of the Magnuson-Moss Warranty Act. Legislative history is wholly irrelevant to a proper interpretation of the Act because the statute on this point is not open to interpretation. In Missouri, courts normally resort to a review of legislative history only if the language of the statute involved is ambiguous. *Kieffer v. Kieffer,* 590 S.W.2d 915, 918 (Mo. 1979). Because the language of the Magnuson-Moss Warranty Act is clear and unambiguous as to the discretionary nature of attorneys' fees and expenses, no consideration of the legislative history is appropriate. *See also Allen v. United States,* 250 F. Supp. 155, 156 (E.D. Mo. 1965).

Moreover, nothing in the legislative history of the Act indicates any intention that it is to be interpreted in a way that is contrary to its clear wording. The express words of the Act are that attorney's fees "may be allowed" in the court's discretion. *See* 1974 U.S. Code Cong. and Ad. News, 7724. Thus, the state trial court's denial of attorneys' fees was not violative of Congressional intent. Also, because of the unique facts of this case, the trial court's ruling on petitioners' application for attorneys' fees will have little, if any, application beyond the limited factual situation of this case.

Petitioners next argue that as a prevailing party they should be presumptively entitled to attorney's fees as a matter of right. This argument wholly ignores the discretionary language of the attorney fee provision of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2310(d)(2). In fact, the courts that have interpreted this portion of

the Magnuson-Moss Warranty Act, including those cases cited by petitioners, uniformly agree that a trial court's decision to grant or deny attorneys' fees is judged by the abuse of discretion standard. *See, e.g., Black v. Don Schmid Motors, Inc.,* 657 P.2d 517 (Kan. 1983) (trial court's award of $3000 in attorneys fees to the prevailing party affirmed as not constituting an abuse of discretion); *Sherer v. DeSalvo,* 634 S.W.2d 149 (Ark. App. 1982) (award of $1,000, a significant reduction below the amount of attorneys' fees requested by plaintiff, would not be disturbed on appeal).

The appeals court in *Trost v. Porreco Motors, Inc.,* 443 A.2d 1179 (Pa. Sup. 1982) upheld the trial court's denial of an award of attorneys' fees pursuant to the Magnuson-Moss Act to the prevailing party, despite the trial court's failure to set forth any reasons for its denial of attorneys' fees. Likewise, in *Champion Ford Sales, Inc. v. Levine,* 433 A.2d 1218 (Md. 1981), the appellant court reversed the trial court's ruling that a claim pursuant to Magnuson-Moss had not been stated. However, the court stated that "[w]e shall remand the case to the trial court for determination as to the amount of buyer's attorneys' fees and for an award thereof, *unless the court below, in its discretion, determines that such* an award is inappropriate." *Champion Ford Sales, Inc. v. Levine,* 433 A.2d at 1227 (emphasis added).

In *Patricia Gates v. Chrysler Corp.,* 397 So.2d 1187 (Fla. Ct. App. 1981) the Florida Court of Appeals reversed a trial court's order directing a verdict in favor of defendant on plaintiff's Magnuson-Moss claim, commenting: "Nor should our conclusion that some evidence is contained in the record of a violation of the Magnuson-

Moss Warranty Act be construed as an attempt by us to invade the province of the trial court *in whose sole discretion lies the question of attorneys' fees* in these cases." 397 So.2d at 1190 (emphasis added). None of the warranty cases cited by petitioners support their claim of entitlement to attorneys' fees and expenses as a matter of right.

Petitioners also claim that decisional law under another federal statute, the Civil Rights Attorney Fee Award Act of 1976, 42 U.S.C. § 1988, supports an award of attorneys' fees in this warranty case. The Civil Rights Attorney Fee Award Act of 1976 was enacted for historically different reasons than the Magnuson-Moss Act. The suggestion that the Civil Rights statute's unique provisions and interpretation should be uniformly applied to a wholly distinct statutory provision is not persuasive and lacks legal support.

The Missouri Court of Appeals decision found that petitioners had failed to meet their burden of proof on their attorney fee application, in part, because of a failure to differentiate the time spent on claims against the five defendants other than Jeep Corporation. *See* App. B. Petitioners now argue that Jeep Corporation should be responsible for all time incurred by petitioners without regard to the outcome of the claim or the defendant against whom the claim was asserted.

The language of the Magnuson-Moss Warranty Act specifically directs that a fee award can be made only for "actual time" expended and determined to have been "reasonably incurred" in the "commencement and prosecution" of "such action". No cases suggest that the prevailing party may seek recovery pursuant to 15 U.S.C.

§ 2310(d)(2) for time expended on failed, dismissed or non-Magnuson-Moss claims, and petitioners have not cited any cases to the contrary.

The only cases cited by petitioners in support of the contention that Jeep Corporation should be responsible for all attorney time incurred irrespective of the claim or defendant involved are non-Magnuson-Moss cases involving civil rights issues and constitutional claims. The statutory provisions referred to in those cases are far less explicit concerning the work for which an award may be made than the provisions of 15 U.S.C. § 2310(d)(2). Moreover, the cited cases commonly involved the issue of the appropriate fee award to counsel for a party prevailing on one of several common constitutional issues against one defendant or one corporate entity and its employees or officers.[7]

Even the cases relied on by petitioners have recognized that a fee applicant "bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates." *Hensley v. Eckerhart,* 76 L. Ed. 2d 40, 53 (1983). Petitioners clearly failed to meet their burden of proof in connection with their application for attorneys' fees and expenses in this case. No expert testimony was offered concerning the reasonableness of the hours or hourly rates for which compensation was sought. While the trial court is con-

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[7]In Civil Rights Attorney Fee Award Act cases the courts have recognized that the policy of the Act was to encourage constitutional litigation, and thus an award for expenses incurred in the preparation of issues not reached may be justified if the same constitutional values were advanced through a resolution of other issues. *Seattle School District No. 1 v. Washington,* 633 F.2d 1338, 1349 (9th Cir. 1980).

sidered an expert on the matter of the propriety of an attorneys' fee award, the trial court must have sufficient information on which to make such an award. In the circumstances of this case, such information was wholly lacking. For example, there was no evidence presented showing which of the several attorneys involved in the case was responsible for work described in particular time entries. Thus, the trial court could make no evaluation as to the level of skill and expertise of the attorney primarily involved in preparing the case for trial.

Moreover, as the Missouri Court of Appeals recognized, ample reasons existed to support a finding that the trial court's denial of attorneys' fees in the circumstances of this case did not constitute an abuse of discretion. App. B, B-24-29. No attempt was made by petitioners in their application for fees and expenses or in their attorneys' testimony to differentiate the time spent in connection with the two claims against Jeep Corporation from the time spent in connection with their other claims against the five other parties, who at one time appeared as defendants in this case. The Missouri Court of Appeals recognized that counsel's itemized list showed that "much of the time spent was on the claims against defendants other than Jeep". App. B at B-26.[8] Not only

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[8]A review of the time records submitted as part of petitioners' application for attorneys' fees illustrates the significance of petitioners' failure to differentiate the time spent in connection with particular matters. For example, time entries on November 24, December 5, December 9 and December 11, 1980 relate in whole or in part to interrogatories directed to one of the other dealership defendants. In addition, time entries on January 8, January 20, January 21, January 28, January 29, February 5 and February 6, 1981 relate to claims against two other defendants. Likewise, time spent on February 9, February 10 and February 11, 1981 all relate to issues involving another defendant.

is substantial effort reflected throughout the time records relating to time spent on claims against other defendants, but, in addition, some of the descriptions make it impossible to determine which particular time entries relate to which defendants. However, it is clear that substantial time was expended by petitioners' counsel throughout the prosecution of this litigation in connection with claims against defendants who were either voluntarily dismissed or who were directed out by the trial court. To request fees against Jeep Corporation for the work done in connection with claims asserted against other defendants is wholly unreasonable and without precedent.

It is established in Missouri that in requesting attorneys' fees, the party seeking such fees *must* allocate the time spent in connection with the particular issues or parties that are the subject of successful prosecution. In the absence of some allocation of the attorneys' fees requested between the issues on which the party prevails and those related to dismissed or directed parties and counts, an award of attorneys' fees is not proper. *See Funding Systems Leasing Corp. v. King Louie Int'l, Inc.*, 597 S.W.2d 624 (Mo. App. 1979); *Universal C.I.T. Credit Corp. v. State Farm Mutual Automobile Ins. Co.*, 493 S.W.2d 385, 392-93 (Mo. App. 1973).

Given petitioners' complete failure to identify the attorney performing the work or to segregate the time spent on particular issues or in connection with the various claims against defendants other than Jeep Corporation, the state trial court properly denied the application for an award of attorneys' fees and expenses. Counsels' failure to offer other evidence necessary for the trial

court's consideration of the fee application also warranted the denial of the attorneys' fees requested.[9]

CONCLUSION

For all the foregoing reasons, the petition for a writ of certiorari to the Missouri Court of Appeals for the Western District should be denied and Jeep Corporation should be awarded such costs as deemed appropriate by this Court.

Respectfully submitted,

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[9]Petitioners argue in point 5 that it was an abuse of discretion for the Missouri Court of Appeals to deny their request for attorneys' fees for their appeal. On appeal, petitioners were unsuccessful in their efforts to have the court of appeals overturn the trial court's ruling on attorneys' fees, petitioners conceded they had not presented a submissible fraud case, and the warranty claim was remanded for a retrial of damages. Thus, petitioners cannot be considered a prevailing party on appeal.

APPENDIX F

No. 84-54

IN THE SUPREME COURT OF
THE UNITED STATES

GARY and TERESA HIBBS,

Petitioners,

vs.

JEEP CORPORATION,

Respondent.

RESPONDENT'S RULE 28.1 STATEMENT

Pursuant to Rule 28.1, the respondent makes the following statement regarding its corporate structure. Defendant/Respondent Jeep Corporation is a wholly-owned subsidiary of American Motors Corporation. American Motors Sales Corporation is also a wholly-owned subsidiary of American Motors Corporation. Other subsidiaries and affiliated companies of American Motors Corporation are as follows: American Motors (Canada) Inc.; American Motors Leasing Corporation; American Motors Pan American Corporation; American Motors Realty Corporation; Coleman Products Company; Evart Products Company; MacDonald Molding, Inc.; Mercury Plastics Company; A.M.C. De Venezuela, C.A.; American Motors Financial Corporation; Arab American Vehicles Company; Beijing Jeep Corporation; Coleman Products De Mexico; Jeep Africa, Ltd.; Jeep Australia, PTY, Ltd.; Jeep De Venezuela, SA.; Jeep Japan, Ltd.; Mahindra &

Mahindra, Ltd.; Renault Jeep/Sport, Inc.; and Vehiculos Automotores Mexicanos, S.A.

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